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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,322	11/16/2000	Peter M. Keddell	KEPM5001MP	4345

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EXAMINER

SLACK, NAKO N

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,322

Applicant(s)

KEDDELL, PETER M.

Examiner

Naoko Slack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 30, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 73-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 73-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

In response to Applicant's filing of an RCE, claims 1-72 have been canceled, and newly submitted claims 73-80 have been examined in this Office Action.

Claim Rejections – 35 USC 112

The following is a quotation of the second paragraph of 35 USC 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 73-79 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 73, line 9, "back" should probably be – bottom – as the front surface would eliminate the bottom surface if attached directly to the back surface.

Similarly in claim 76, line 9, "back" should probably be bottom.

Claim Rejections – 35 USC 102

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 80 is rejected under 35 USC 102(b) as being anticipated by US Patent 5,664,376 to Wilson et al.

Claim 80:

Wilson et al. discloses a trim member comprising:

-a sheet of deformable material (14 and column 2, lines 57-58) having a plurality of continuous surfaces including both flat and curved surfaces (14, 16, and 18, Figure 1) in its cross-sectional profile between first and second linearly extending spaced apart edge portions (distal ends of trim member 14) and connected through bends at adjoining boundaries of the surfaces; and

-a molded block member (10, Figure 1) secured to a vertical wall (20) and shaped to substantially conform to and fill the interior of the sheet of deformable material (column 1, lines 67- column 2, line 1) and wherein the sheet is mounted and retained on the block in a self-supporting manner (column 2, lines 1-4).

Claims 73 and 75 are rejected under 35 USC 102(b) as being anticipated by US Patent 6,029,415 to Culpepper et al.

Claim 73:

Culpepper et al. discloses an elongated horizontal trim product mountable on a flat, vertical surface of a building comprising:

-and elongated, molded, horizontally-positioned stiffening block surface (seen adjacent building wall 32, Figure 2), a flat horizontal top surface (best shown in Figure 4), a flat horizontal bottom surface (40, Figure 4), and a front surface extending between an

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outer edge proximate the top and bottom surfaces including a cross-sectional profile of interconnected flat, curved, vertical and horizontal surfaces (best shown in Figure 2);

- means (30, Figure 2) fixedly securing the molded block directly to a flat, vertical surface of the building;

- an elongated, horizontal deformable metallic sheet terminating in upper (26, Figure 2) and lower (16, Figure 2) end sections, with a central section providing a cross-sectional profile of interconnected continuous surfaces which mate and snugly fit the cross-sectional profile of the stiffening block (Figure 2);

- the shape of the sheet's sections enables the sheet to be supported by and closely fit to the block prior to installation of other support means.

Claim 75:

Culpepper et al. discloses a U-shape (24, Figure 3) at the upper section of the sheet to receive an edge of a horizontal member secured to the building.

Claim Rejections – 35 USC 103

The following is a quotation of 35 USC 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 74 is rejected under 35 USC 103(a) as being unpatentable over US Patent 6,029,415 to Culpepper et al. in view of US Patent 5,675,955 to Champagne.

While Culpepper et al. fails to teach a bracket such that the lower end of the sheet is adapted to be flexed and snap-fitted to the bracket, Champagne teaches a bracket (5, Figure 1) that permits the lower end of the trim panel to snap-fit thereto (Figure 3). In view of Champagne, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a bracket at the lower end (16) of Culpepper et al.'s trim panel, as Culpepper et al. is concerned with improving the interlocked installation of trim to a building wall (column 1, lines 1-10).

Allowable Subject Matter

Claims 76-79 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

While prior art has disclosed a method of forming and applying an elongated, horizontal trim product comprising the steps of

- forming a molded stiffening block with flat vertical back surface, a flat horizontal top surface, a flat horizontal bottom surface, and a front surface with a cross-sectional profile of continuous flat, curved, vertical and horizontal shapes;

- fixedly securing the molded block directly to a flat vertical surface of the building;

and

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-forming an elongated metallic sheet with upper and lower end sections and a central section whose cross-sectional profile mates and snugly fits the cross-sectional profile of the stiffening block,

prior art fails to disclose the step of mounting the metallic sheet onto the stiffening block using the shape of the sheet to support and maintain the sheet on the block prior to installation of the other support means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reason for Allowance."

Prior Art Made of Record

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US Patents 4506486, D471292S, D4488655, and 5090174 disclose foam-backed metallic trim pieces with mating cross-sectional profiles.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose telephone number is (703) 305-0315. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm EST). If attempts to

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reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl D. Friedman can be reached at (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in cursive script, appearing to be 'NS'.

NS
November 16, 2003